

IN THE MATTER OF MERCHANT MARINER'S DOCUMENT Z-552362-D1 AND ALL
OTHER SEAMAN'S DOCUMENTS

Issued to: John Jerome PUCKETT

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1817

John Jerome PUCKETT

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.30-1.

By order dated 28 October 1968, an Examiner of the United States Coast Guard at San Francisco, California suspended Appellant's seaman's documents for three months plus three months on twelve months' probation upon finding him guilty of misconduct. The specification found proved allege that while serving as a fireman/watertender on board SS ST AUGUSTINE VICTORY under authority of the document above captioned, Appellant:

- (1) on 23 September 1968, failed to perform duties because of intoxication at Sattahip;
- (2) on 24 and 25 September 1968, failed to perform duties because of intoxication while at sea;
- (3) on October 1968, failed to perform duties because of intoxication while at sea; and
- (4) on 4 October 1968, failed to perform duties because of intoxication while at sea; and
- (5) on 5 and 6 October 1968, failed to perform duties because of intoxication at Da Nang.

At the hearing, Appellant did not appear. The Examiner entered a plea of not guilty to the charge and each specification.

The Investigating Officer introduced in evidence voyage records of ST AUGUSTINE VICTORY and the testimony of the vessel's chief engineer.

There was no defense.

At the end of the hearing, the Examiner rendered a written

decision in which he concluded that the charge and specifications had been proved. The Examiner then entered an order suspending all documents issued to Appellant for a period of three months plus three months on twelve months' probation.

The entire decision was served on 13 January 1970. Appeal was timely filed on 16 January 1970. Although Appellant had until 13 March 1970 to add to his original notice, he has not done so.

FINDINGS OF FACT

On all dates in question, Appellant was serving as an oiler on board SS ST AUGUSTINE VICTORY and acting under authority of his document. On the dates in question Appellant failed to perform duties because of intoxication as alleged in the specifications found proved.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. Appellant asserts that he was unable to appear for hearing because of circumstances beyond his control, and asks that the hearing be reopened so that he can present a "substantial defense."

APPEARANCE: Appellant, pro se (but naming Jarvis, Miller & Stender, of San Francisco as his attorneys).

OPINION

I

Appellant gives no hint as to the circumstances beyond his control which rendered him unable to appear for a hearing for which he had due notice. In the absence of any showing of good reason for non-appearance, the ordinary and regular proceeding in absentia will not be disturbed.

II

Even if Appellant presented some excuse for his failure to appear on notice in support of his request that the hearing be reopened so that he could present his "substantial" defense (the nature of which is not disclosed) the question of timeliness is immediately apparent. While Appellant did nothing between the date charges were served on him and the scheduled time of the hearing to apprise anyone of any difficulty in appearing, he also did nothing until more than a year later when it was finally possible to serve the Examiner's decision upon him. Appellant's contentions have no

merit whatsoever.

III

One discrepancy between the charges and findings has been corrected in my findings of fact. While both the charges and the findings of the Examiner refer to Appellant as a fireman/watertender, all the evidence in the record, documentary and testimonial, shows that he was, at the times in question, an oiler. The findings have been amended to conform to the proof; the pleadings will not be formally amended since both capacities are limited to qualified members of the engine department and the particular capacity is not essential to the nature of the misconduct found.

ORDER

The order of the Examiner dated at San Francisco, California on 28 October 1968, is AFFIRMED.

C.R. BENDER
Admiral, United States Coast Guard
Commandant

Signed at Washington, D.C., this 9th day of September 1970.

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